1949. File No. O/Transfer of Property Act-49

Legal Deptt.

G BRANCH

Subject:— Opinion under the Transfer of Property Act 1949.

P3/E

O/Transfer of Property Act/49

File No.

Gen. 194 e.

G 21-49

C O N T E N T S.

Legal Department File No.O/Transfer of Property/49.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Transfer of Property Act.	
1.	G/228/22.3.1949	Whether the 'Katcha receipts' passed by the tenant plot holders of the Bombay Port Trust to the sub-tenants are legally valid and can be accepted as conclusive proof of the possession of a plot for storing charcoal.	1-2
2.	G/245/1.4.1949	Section 108(j) Whether a sub-tenant has any legal right to sublet the plot rented by him from the tenant of a Bombay Port-Trust plot. Whether the receipt, passed by the subtenant to the second sub-tenant should be considered valid for issuing a license under clause 9(2) of the Bombay Charcoal and Firewood Trade Licensing Order, 1949.	3-4

mvg/17.7

Office of the R.L.A.

A katcha receipt evidening payment of rent by a sub-tenant to a tenant may be considered as proof of subtenancy for the period for which the rent is paid, provided such receipt, if it be for a sum exceeding Rs.20, is duly stamped.

Sd/- P. M. Lad
Remembrancer of Legal Affairs.

U.O.R. to C.S.D. No.G/228, dated 22.3.1949.

mvu/17.7

Office of the R.L.A.

The questions for consideration are:-

i) Whether a sub-tenant has any legal right to subject the plot rented by him from the tenant of a Bombay Port Trust plot, and

ii) Whether the receipt passed by the subtenant to thesecond sub-tenant should be considerod valid for issuing a licence under clause 9(2) of the Bombay Charcoal and Firewood Trade Licensing Order, 1949.

Q.No.1.- Section 108(j) of the Transfer of Property Act provides that in the absence of a contract or local usage the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property and any transferee of such interest or part may again transfer it. It there is no covenant against alienation in the lease between the tenant and the Bombay Port Trust or in the lease between the tenant and the first sub-tenant then the first sub-tenant has a right to transfer his interest in the plot by a sub-lease and such sub-tenancy will be considered as legal.

Q. No.2. - Clause 9(2) of the Bombay Charcoal and Firewood Trade Licensing Order, 1949 provides that no importer's licence for charcoal shall be granted to any person who does not hold a municipal licence or is in occupation of a plot for stering charcoal. In this case the Bombay Port Trust receipt and the receipt passed by 1st sub-tenant to the 2nd sub-tenant are produced. But it will be necessary to see the receipt passed by the tenant of the Bombay Port Trust to the 1st sub-tenant. As advised by the R.L.A. in his opinion No.G/228, dated 22.3.1949, the receipt duly stamped passed by the 1st to the 2nd sub-tenant may be considered proof of sub-tenancy for the period for which rent is paid provided a valid receipt under which the 1st sub-tenant acquired interest in the land is also produced.

P.M.Lad.
Sd/- Remembrancer of Legal Affairs.

Z.Z. U.O.N. to C.S.D./IX(F) No.G/215 dated 1.4.1949.